

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WOLVERINE PROCTOR & SCHWARTZ,)
INC. and GREAT AMERICAN)
ALLIANCE INSURANCE CO., INC.)
Plaintiffs,)

v.)

DOCKET NO: 04-12189RWZ

XYZ TAPE CORP., FORMERLY)
KNOWN AS PATCO CORP., WILLIAM)
B. WILBUR AND TRAVELERS)
PROPERTY CASUALTY COMPANY OF)
AMERICA)
Defendants.)

JOINT STATEMENT BY THE PARTIES

Pursuant to Rule 16.1(D) of the Local Rules of the United States District Court for the District of Massachusetts, the parties in the above-entitled matter propose the following pre-trial schedule:

I. DISCOVERY

PHASE 1- DISCOVERY AS TO CONTRACT AND COVERAGE LIABILITY

Initial Disclosures *:	January 24, 2005
Interrogatories and Requests for Production of Documents (first set) Served:	February 11, 2005
Responses to Requests for Production of Documents:	March 16, 2005
Interrogatory Answers:	March 31, 2005
Requests for Admissions and Follow-up Interrogatories and Document Requests (if any) Served:	April 15, 2005
Responses to Requests for Admissions and Follow-up Written Discovery Served:	May 6, 2005

Completion of Fact Depositions: May 20, 2005

Plaintiff's Disclosure of Expert Witness Reports: June 3, 2005

Defendant's Disclosure of Expert Witness Reports: July 5, 2005

PHASE II –DAMAGES DISCOVERY AND EXPERT DEPOSITIONS

Interrogatories and Requests for Production of Documents Served: 14 days after summary judgment decision

Responses to Interrogatories and Requests for Production of Documents: 30 days from service

Completion of Expert Depositions: 60 days from summary judgment decision

The parties further agree that the nature and number of discovery events otherwise shall be governed by Federal Rule of Civil Procedure 30(d) and Local Rule 26.1(C). Any party may file an appropriate motion seeking relief from the limitations on discovery.

II. SCHEDULE FOR MOTIONS

Filing of Plaintiffs' Summary Judgment Motion on Contract and Coverage Liability: August 12, 2005

Filing of Defendants' Oppositions and Cross-Motions for Summary Judgment on Liability: September 23, 2005

Filing of Plaintiffs' Reply and Opposition to Cross-Motions: October 26, 2005

III. SCHEDULE FOR TRIAL

Final pre-trial conference: January 11, 2006

Trial –Bifurcated: Liability from Damages: February 1, 2006

IV. ADDITIONAL DISCOVERY ISSUES

Plaintiffs maintain that requiring disclosure of their attorney fee and expense invoices pursuant to Federal Rule of Civil Procedure 21(a)(1)(C) on which part of their computation of damages is based would be unfair and improper at this time prior to a determination of liability questions.

Defendants maintain that disclosure of Wolverine's attorney fee and expense invoices are discoverable immediately. The issue of timely notice is an important part of the defense and when Wolverine had sufficient information upon which notice could have been given is a triable fact as to Patco and Wilbur. Further, if there is to be any hope of settlement, Wolverine's attorney fee and expense invoices are a significant element of damages and should be presented for verification and consideration.

V. CERTIFICATION

All parties' certifications concerning compliance with Local Rule 16.1(D)(3) will be submitted to the Court or with this Joint Statement.

No party consents to a trial before a United States Magistrate Judge.

The defendants,
XYZ TAPE CORP., FORMERLY KNOWN
AS PATCO CORP., WILLIAM B. WILBUR

By their attorneys:

MORRISON MAHONEY LLP

/s/ Lee Stephen MacPhee

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The defendant,
TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA

By its attorneys:

BERMAN & DOWELL

/s/ Joseph S Berman

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The plaintiffs,
WOLVERINE PROCTOR & SCHWARTZ,
INC. and GREAT AMERICAN ALLIANCE
INSURANCE CO., INC.

By their attorneys:

SMITH & DUGGAN LLP

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January 19, 2005

CERTIFICATE OF SERVICE

I certify that this document has been served upon all counsel of record in compliance with F.R.C.P. this 19th day of January, 2005.

/s/ Lee Stephen MacPhee
Lee Stephen MacPhee